

ENFORCEMENT CONFIDENTIAL – Not Releasable Under Freedom of Information Act

Spill Prevention Control and Countermeasures Inspection

COMPLIANCE INSPECTION REPORT

Evergreen Oil, Inc.

Inspection Date: 28 April 2011

SPCC Case No.: 11-4032

Administrative Information

SPCC Case # 11-4032		Inspection Date 4/28/11	Report Date 8/5/11	Report Version	Draft <input type="checkbox"/>	Final <input checked="" type="checkbox"/>
Facility	Name	Address	City	State	Zip	Check if same as above
	Evergreen Oil, Inc.	6880 Smith Ave	Newark	CA	94560	<input type="checkbox"/>
Owner Name						<input type="checkbox"/>
Operator Name						
Facility Startup	>2000	Hours of Operation	24	hrs/day	7	days/wk
Additional Information	Photographs taken during the site visit are included in Attachment 1, below. Inspection was conducted in conjunction with Alameda County CUPA. Fire on 3/29 resulted in haz mat release and also release of waste oil due to failure of bladder in storm drain.					

Inspectors

Name	Agency/Company	Phone
Janice Witul	U.S. Environmental Protection Agency	415-972-3089
Robert Weston, Roseanna Garcia-LaGrille	Alameda County CUPA	(510) 567-6781/777-2149

Primary Facility Contacts

Name	Title	Phone
Alid Guerrero	EH&S Specialist aguerrero@evergreenoil.com	(510) 795-4400 x154
Wayne Kiso	(Clarus Management Solutions)	wkiso@evergreenoil.com

Facility Description

Type of Business:	NAICS Code 324191	Description	Petrol. Lube Oil & Grease Manuf; Waste Oil Refinery
Petroleum Storage:	Total Gallons	No. of ASTs	Total AST Gallons
Waste oil, oily water, lubricating oil		Various	
		No. of USTs	Total UST Gallons
		0	0
		No. of PCs	Total PC Gallons
		various	
		No. of Op. equip using oil	Total Gallons
Facility Information:	Total Acreage	Wholly contiguous site?	Yes x No <input type="checkbox"/>
Surface Water:	Nearest Water Body Name:	Distance to Water Body:	
	Mowry Slough to San Francisco Bay		
Drainage Pathway to Nearest Water Body:	Storm drain on site, channel/ditch adjacent to site		

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Inspection Scope

This inspection was conducted in conformance with the protocol outlined in U.S. Environmental Protection Agency (EPA) Region IX Draft "SPCC Inspection Protocol" dated January 10, 2003, to ascertain the facility's compliance with the Final Rule for Title 40 *Code of Federal Regulations* (40 CFR) Part 112 published on July 17, 2002, and recent amendments promulgated in 2006 and later.

Findings

During the physical inspection of the facility, tankage, operational equipment using oil, drainage control systems, piping and secondary containment areas were inspected for conformance to 40 CFR Part 112 guidelines. The physical extent of the inspection and findings are summarized as follows:

SPCC Plans available for review from 2000 and 6/2008. No evidence of required 5-year review in 2005. (A Secondary Containment Check from 2005 has been included with the 2008 Plan, but there is not a review shown of the entire plan. n.b. – Raman Patel, PE for 2005 Secondary Containment Check document currently under probation for two years by CA PE Board for a Complaint of Negligence and Deceit/Misrepresentation, in lieu of his license being revoked entirely.) Several changes at the facility have been made, without amendments to the SPCC Plan. Current Plan shows tanks in diagram that are not at the site, due to secondary containment restrictions required by fire authorities.

The railcar loading process is described as an area – arm appears to be fixed type, as at a loading rack rather than loading area. There was no Contingency Plan provided – which is supposed to be an attachment to the SPCC Plan – and contain the response contact information (phone numbers, etc.). Testing is required every 5 years, according to the Plan. Test results for certain tanks provided for 2001, 2005, but none for 2010. (UT and API 653 checklist for Tanks 503A, 503B, and 505 provided.) Training information viewed for employees – while much information for hazardous materials and specific training (e.g., forklift, H&S) no mention of oil handling, 40 CFR 112, or SPCC Plan. Inspection sheets provided for review – weekly and daily. Many items on the Daily form have WOW (Work Order Written) notation, but the Date Corrected column is blank. Weekly forms have column heading "Description of repairs made or Work Order #". These columns were not seen to ever contain a WO#, and rarely to have a description of repairs. Usually just WOW notation entered.

Inflatable bladder for the storm drain is required to be pressurized to 20-25 lbs, but supposedly had leak at valve stem of hose which caused failure the day of the fire, and the reading before failure was apparently 19 lbs (no explanation of why was it not inflated to 20-25 lbs). Requirement is to check gauge every twelve hours. According to the daily inspections, there are times when the bladder is inflated/deflated due to rain. At the time of the inspection, the hose for bladder inflation/deflation was hooked over the storm drain grate, and had no valve cap in place. A truck parked in the immediate vicinity may have driven over the hose when parking.

No Certificate of Applicability of Substantial Harm Criteria Checklist.

General-Facility Attributes:

Attribute complies with guidelines?	Yes	No	Comments
SPCC Plan requirements 112.1-112.5	<input type="checkbox"/>	X	Not adequate, not reviewed at proper intervals, not amended.
General drainage controls 112.7(c)	<input type="checkbox"/>	<input type="checkbox"/>	
Inspections, Tests and Records 112.7(e)	<input type="checkbox"/>	X	Records not available for all tanks.
Personnel Training 112.7(f)	<input type="checkbox"/>	X	Some training, but not SPCC or oil handling specifically.
Security 112.7(g)	<input type="checkbox"/>	<input type="checkbox"/>	
Tank car /truck loading/unloading rack 112.7(h)	<input type="checkbox"/>	<input type="checkbox"/>	
Facility Drainage 112.8(b)	<input type="checkbox"/>	X	Storm drain bladder not properly controlled.
Bulk Storage Containers 112.8(c)	<input type="checkbox"/>	<input type="checkbox"/>	
Transfer Operations, Pumping, Facility process 112.8(d)	<input type="checkbox"/>	<input type="checkbox"/>	
Substantial Harm Criteria Checklist 112.20	<input type="checkbox"/>	X	None found.

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Deficiencies

For purposes of this section findings are categorized as either deficiencies or areas of concern (AOC). Deficiencies are violations of federal guidelines requiring correction. AOCs are observations or substandard work practices for which action is recommended.

Def Number:	1+
Type :	Inspection/Plan review
Observation:	See Findings Section, above.
Requirement:	40 CFR 112 requires SPCC Plan and proper implementation of program.

Acronyms

API	American Petroleum Institute	OWS	Oil/water separator
AOC	Area of concern	PC	Portable containers
AST	Aboveground storage tank	SPCC	Spill Prevention Control and Countermeasure
CFR	<i>Code of Federal Regulations</i>	UST	Underground storage tank
NAICS	North American Industry Classification System	WWTS	Wastewater treatment system

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ATTACHMENT 1 - Photos

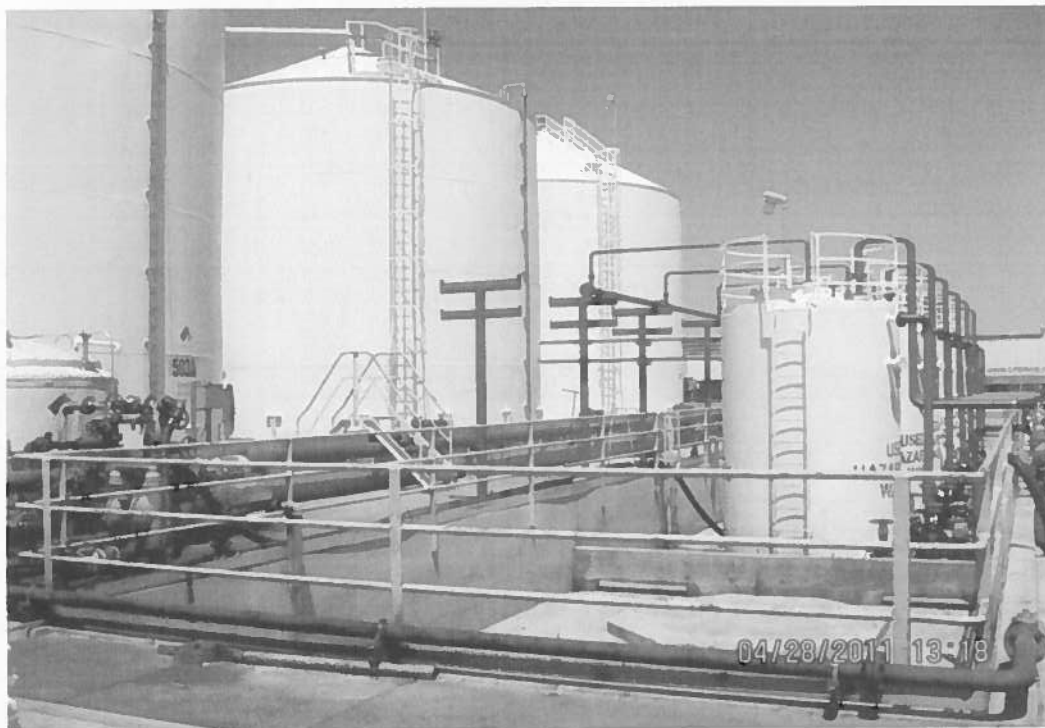


Photo 1: Recycled Oil and Used Oil tanks. Facility diagram does not depict tanks actually in place.



Photo 2: Rail Car loading rack

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Photo 3: Truck loading/unloading area

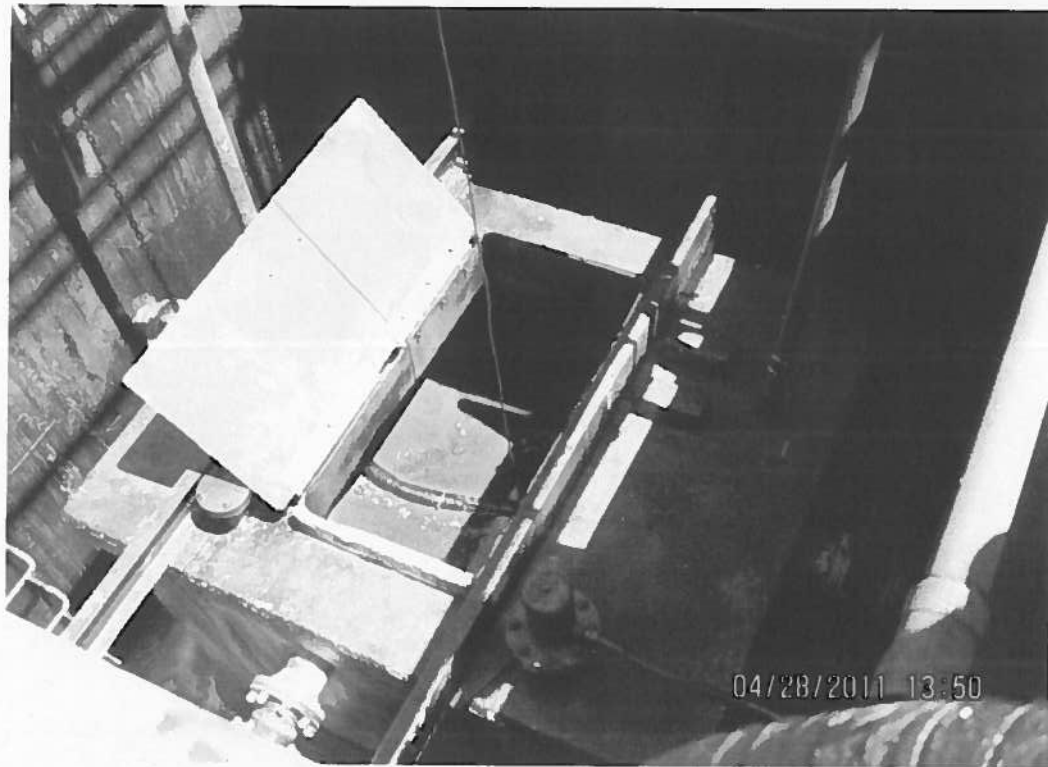


Photo 4: Oil/water separator

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Photo 5: Storm drain bladder inflation hose – no valve cap in place.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105

AUG 12 2011

Certified Mail No. 7010 1060 0002 0234 9117

Return Receipt Requested

Mr. Alid Guerrero
Evergreen Oil, Inc.
6880 Smith Ave.
Newark, CA 94560

Dear Mr. Guerrero:

On April 28, 2011, the Environmental Protection Agency ("EPA") inspected the facility owned and operated by Evergreen Oil, Inc. in Newark, CA. During the inspection, EPA observed violations of the Spill Prevention, Control and Countermeasures ("SPCC") regulations. The specific violations are identified in the enclosed SPCC Inspection Findings, Alleged Violations and Proposed Penalty Form ("Penalty Form"). EPA has authority under Section 311 of the Clean Water Act, 33 U.S.C. § 1321, to pursue civil penalties for violations of the SPCC regulations. EPA, however, encourages the expedited settlement of easily verifiable violations of SPCC requirements, such as the violations cited in the Expedited SPCC Settlement Agreement ("Settlement Agreement").

You may resolve the cited violations quickly by correcting the violations, mailing a check for the penalty as described below, and signing and returning the enclosed Settlement Agreement within thirty (30) days of your receipt of this letter. As a condition of the settlement, you must certify that you have corrected the violations. EPA, at its discretion, may grant one 30-day extension to come into compliance if you demonstrate that it is technically infeasible or impractical to achieve compliance within 30 days.

This Settlement Agreement will become effective after you return the signed Settlement Agreement. EPA will sign and execute the agreement according to the procedural regulations that govern administrative penalties. These regulations can be found in the Code of Federal Regulations, Title 40 Part 22. Once the Settlement Agreement is effective, EPA will take no further action against you for the violations cited in the Settlement Agreement. EPA will neither accept nor approve the Settlement Agreement if returned more than 30 days after the date of your receipt of this letter unless EPA has granted an extension.

If you do not pay the penalty and return the Settlement Agreement within the allowed time, the offer of the Settlement Agreement will be automatically withdrawn without prejudice to EPA's ability to take any other enforcement action for the cited violations. Failure to sign and return the Settlement Agreement and pay the penalty within the approved time does not relieve you of the responsibility to comply fully with the SPCC regulations, including correcting the violations that have been identified in the Penalty Form. If you decide not to sign and return the Settlement Agreement and pay the penalty, EPA can pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to \$37,500 per day per violation.

You are required in the Settlement Agreement to certify that you have corrected the violations and paid the penalty. The payment for the penalty amount must be in the form of a certified check payable to the "Treasurer, United States of America" with the notation "Spill Fund - 311" and the Docket Number of the Settlement Agreement on the check. The Docket Number is located at the top of the left column of the Settlement Agreement.

When mailing a request for a 30-day extension or the Settlement Agreement, please send original, signed documents via CERTIFIED MAIL to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency
Region 9 (SFD-9-4)
75 Hawthorne Street
San Francisco, California 94105-3901

The certified check for payment of the penalty must be sent via CERTIFIED MAIL to:

U. S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

A copy of the Settlement Agreement and of the penalty payment should be retained by you. EPA will forward to you a copy of the fully executed Settlement Agreement.

By the terms of the Settlement Agreement, and upon EPA's receipt of the signed Settlement Agreement, you waive your opportunity for a hearing pursuant to Section 311 of the Clean Water Act. EPA will treat any response to the proposed Settlement Agreement other than acceptance of the settlement offer or a first request for extension as an indication that you are not interested in pursuing this expedited settlement procedure.

If you have any questions, please contact me at (415) 947-4273.

Sincerely,



Mark Samolis, Chief
Enforcement and Removal Operations Section

Enclosures (2)

Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 9 under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name: Evergreen Holdings, Inc.		Docket Number: CWA-09-2011-0012
Facility Name: Evergreen Oil, Inc.		Date: April 28, 2011
Address: 6880 Smith Ave.		Inspection Number: 11-4032
City: Newark		Inspector Name: Janice Witul
State: CA	Zip Code: 94560	EPA Approving Official: Jane Diamond
Contact: Mr. Alid Guerrero		Enforcement Contact: Mark Samolis (415) 947-4273



Summary of Findings (Bulk Storage Facilities)

GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)
(When the SPCC Plan review penalty exceeds \$1,500.00 enter only the maximum allowable of \$1,500.00.)

- | | |
|---|------------|
| <input type="checkbox"/> No Spill Prevention Control and Countermeasure Plan-112.3 | \$1,000.00 |
| <input type="checkbox"/> Plan not certified by a professional engineer- 112.3(d) | 450.00 |
| <input type="checkbox"/> Certification lacks one or more required elements - 112.3(d)(1)..... | 100.00 |
| <input type="checkbox"/> No management approval of plan- 112.7..... | 450.00 |
| <input type="checkbox"/> Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)..... | 300.00 |
| <input checked="" type="checkbox"/> No evidence of five-year review of plan by owner/operator- 112.5(b)..... | 75.00 |
| <input checked="" type="checkbox"/> No plan amendment(s) if the facility has had a change in: design, construction, operation,
or maintenance which affects the facility's discharge potential- 112.5(a) | 75.00 |
| <input type="checkbox"/> Amendment(s) not certified by a professional engineer- 112.5(c) | 150.00 |
| <input type="checkbox"/> Plan does not follow sequence of the rule and/or cross-reference not provided- 112.7 | 150.00 |
| <input type="checkbox"/> Plan does not discuss additional procedures/methods/equipment not yet fully operational- 112.7 | 75.00 |

- ☐ Plan does not discuss alternative environmental protection to SPCC requirements- 112.7(a)(2).....200.00
- ☐ Plan has inadequate or no facility diagram- 112.7(a)(3) 75.00
- ☐ Inadequate or no listing of type of oil and storage capacity layout of containers- 112.7(a)(3)(i).....50.00
- ☐ Inadequate or no discharge prevention measures- 112.7(a)(3)(ii)50.00
- ☐ Inadequate or no description of drainage controls- 112.7(a)(3)(iii)50.00
- ☐ Inadequate or no description of countermeasures for discharge discovery, response and cleanup- 112.7(a)(3)(iv)... 50.00
- ☐ Recovered materials not disposed of in accordance with legal requirements- 112.7(a)(3)(v).....50.00
- ☐ No contact list & phone numbers for response & reporting discharges- 112.7(a)(3)(vi).....50.00
- ☐ Plan has inadequate or no information and procedures for reporting a discharge- 112.7(a)(4)100.00
- ☐ Plan has inadequate or no description and procedures to use when a discharge may occur- 112.7(a)(5) 150.00
- ☐ Inadequate or no prediction of equipment failure which could result in discharges- 112.7(b)150.00
- ☐ Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- 112.7(c)400.00

- If claiming impracticability of appropriate containment/diversionary structures:

- ☐ Impracticability has not been clearly denoted and demonstrated in plan- 112.7(d).....100.00
- ☐ No contingency plan- 112.7(d)(1) 150.00
- ☐ No written commitment of manpower, equipment, and materials- 112.7(d)(2)..... 150.00
- ☐ No periodic integrity and leak testing , if impracticability is claimed - 112.7(d) .150.00
- ☐ Plan has no or inadequate discussion of general requirements not already specified-112.7(j) 75.00

QUALIFIED FACILITY REQUIREMENTS: 112.6

- ☐ Qualified Facility: No Self certification- 112.6(a).....450.00
- ☐ Qualified Facility: Self certification lacks required elements- 112.6(a).....100.00
- ☐ Qualified Facility: Technical amendments not certified- 112.6(b) 150.00
- ☐ Qualified Facility: Un-allowed deviations from requirements- 112.6(c).....100.00
- ☐ Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- 112.6(d).....350.00

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

- ☐ Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - 112.7(e)..... 75.00

- ☐ Inspections and tests required are not in accordance with written procedures developed for the facility- 112.7(e). 75.00
- ☐ No Inspection records were available for review - 112.7(e)200.00

- Written procedures and/or a record of inspections and/or customary business records:

- ☐ Are not signed by appropriate supervisor or inspector- 112.7(e) 75.00
- ☐ Are not maintained for three years- 112.7(e)..... 75.00

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

- ☐ No training on the operation and maintenance of equipment to prevent discharges and or facility operations - 112.7(f)(1)..... 75.00
- ☐ No training on discharge procedure protocols- 112.7(f)(1) 75.00
- ☒ No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- 112.7(f)(1) 75.00
- ☐ Training records not maintained for 3 years- 112.7(f)(1) 75.00
- ☐ No designated person accountable for spill prevention- 112.7(f)(2)..... 75.00
- ☐ Spill prevention briefings are not scheduled and conducted at least annually- 112.7(f)(3) 75.00
- ☐ Plan has inadequate or no discussion of personnel and spill prevention procedures-112.7(a)(1) 75.00

SECURITY (excluding Production Facilities) 112.7(g)

- ☐ Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production- 112.7(g)(1).150.00
- ☐ Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- 112.7(g)(2).300.00
- ☐ Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status- 112.7(g)(3). 75.00
- ☐ Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- 112.7(g)(4). 75.00
- ☐ Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- 112.7(g)(5).150.00
- ☐ Plan has inadequate or no discussion of facility security-112.7(a)(1)75.00

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

- ☐ Inadequate containment for Loading Area (not consistent with 112.7(c)) - 112.7(c).....400.00
- ☐ Inadequate secondary containment, and/or rack drainage does not flow to catchment basin,

- treatment system, or quick drainage system- 112.7(h)(1).....750.00
- ☐ Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck- 112.7(h)(1).....450.00
- ☐ There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- 112.7(h)(2).300.00
- ☐ There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- 112.7(h)(3).....150.00
- ☐ Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack-112.7(a)(1).75.00

QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)

- ☐ Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge- 112.7(k)(2)(i).....150.00
- ☐ Failure to provide an oil spill contingency plan- 112.7(k)(2)(ii)(A).....150.00
- ☐ No written commitment of manpower, equipment, and materials- 112.7(k)(2)(ii)(B).....150.00

FACILITY DRAINAGE 112.8(b) & (c)

- ☐ Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge- 112.8(b)(1)&(2) and 112.8(c)(3)(i).....600.00
- ☐ Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision- 112.8(c)(3)(ii)&(iii).....450.00
- ☐ Adequate records (or NPDES permit records) of drainage from diked areas not maintained- 112.8(c)(3)(iv).....75.00
- ☒ Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- 112.8(b)(3)&(4).....450.00
- ☐ Two "lift" pumps are not provided for more that one treatment unit- 112.8(b)(5)50.00
- ☐ Plan has inadequate or no discussion of facility drainage-112.7(a)(1).....75.00

BULK STORAGE CONTAINERS 112.8(c)

- ☐ Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i).....75.00
- ☐ Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i).....300.00
- ☐ Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature- 112.8(c)(1)..450.00
- ☐ Secondary containment appears to be inadequate- 112.8(c)(2)750.00
- ☐ Containment systems, including walls and floors are not sufficiently impervious to contain oil- 112.8(c)(2)375.00

- ☐ Excessive vegetation which affects the integrity150.00
- ☐ Walls of containment system slightly eroded or have low areas.....300.00
- ☐ Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- 112.8(c)(4).....150.00
- ☐ Partially buried tanks do not have buried sections protected from corrosion- 112.8(c)(5).....150.00
- ☐ Aboveground tanks are not subject to visual inspections- 112.8(c)(6).....450.00
- ☐ Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- 112.8(c)(6).450.00
- ☐ Records of inspections (or customary business records) do not include inspections of tank supports/foundation, deterioration, discharges and/or accumulations of oil inside diked areas- 112.8(c)(6).....75.00
- ☐ Steam return /exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- 112.8(c)(7).150.00
- ☐ Tank battery installations are not in accordance with good engineering practice because none of the following are present- 112.8(c)(8).....450.00
- ☐ No testing of liquid level sensing devices to ensure proper operation- 112.8(c)(8)(v)75.00
- ☐ Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- 112.8(c)(9)150.00
- ☐ Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- 112.8(c)(10) 450.00
- ☐ Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- 112.8(c)(11)150.00
- ☐ Secondary containment inadequate for mobile or portable storage tanks- 112.8(c)(11)..... 500.00
- ☐ Plan has inadequate or no discussion of bulk storage tanks-112.7(a)(1) 75.00

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)

-
- ☐ Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -112.8(d)(1)...150.00
 - ☐ Corrective action is not taken on exposed sections of buried piping when deterioration is found- 112.8(d)(1)450.00
 - ☐ Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- 112.8(d)(2)75.00
 - ☐ Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- 112.8(d)(3).....75.00
 - ☐ Aboveground valves, piping and appurtenances are not inspected regularly- 112.8(d)(4)300.00
 - ☐ Periodic integrity and leak testing of buried piping is not conducted- 112.8(d)(4)150.00

- ☐ Vehicle traffic is not warned of aboveground piping or other oil transfer operations- 112.8(d)(5).150.00
- ☐ Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process-112.7(a)(1).....75.00
- ☒ Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria
per 40 CFR Part 112.20(e) 150.00

TOTAL: 825.00



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET, SAN FRANCISCO, CALIFORNIA 94105
EXPEDITED SPCC SETTLEMENT AGREEMENT

DOCKET NO.: SPCC-09-2011-0012

On: April 28, 2011

At: Evergreen Oil, Inc.
Newark, CA 94560

Owned & Operated by: Evergreen Holdings, Inc.
(Respondent)

An authorized representative of the United States Environmental Protection Agency ("EPA") conducted an inspection to determine compliance with the Oil Pollution Prevention ("SPCC") regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), (the "Act"), and found that Respondent had failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM ("Form"), which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection findings and Alleged Violations set forth in the Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Form. The Respondent admits to being subject to 40 CFR § 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections Respondent may have to EPA's jurisdiction.

EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$825.00. The Respondent consents to the assessment of this penalty.

This Expedited Settlement also is subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected by September 30, 2011 and Respondent has sent a certified check in the amount of \$825.00, payable to the "Treasurer, United States of America" with the notation "Spill Fund - 311" and the Docket Number stated above.

This Expedited Settlement must be returned by certified mail to: OPA Enforcement Coordinator, U.S. Environmental Protection Agency, Region 9 (SFD-9-4), 75 Hawthorne Street, San Francisco, California 94105-3901. The certified check for payment must be sent by certified mail to: U. S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

After this Expedited Settlement becomes effective, EPA

will take no further action against the Respondent for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulations.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective immediately on the date filed with the Regional Hearing Clerk. If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the Form.

APPROVED BY EPA:

Jane Diamond, Director
Superfund Division
Date 9-27-11

APPROVED BY RESPONDENT:

Name (Print): Wayne Kiso
Title (Print): Health, Safety, & Environmental Manager

Date 9/28/11

IT IS SO ORDERED:

Steven Jawgiet
Regional Judicial Officer
Date 09/28/11

